(3) The RJA may request that the attorney representing the injured party include the amount asserted by the United States as part of special damages. The injured party's attorney may not represent the United States nor may the United States pay attorney fees as this would be in violation of 5 U.S.C. 3106. Where indicated, this arrangement should be reduced to writing. Be mindful that the attorney's duty to the injured party is in conflict with the interests of the United States where the amount potentially recoverable is small in comparison to the amount asserted by the United States. In this event the RJA should pursue recovery independently.

(b) Careful monitoring of all assertions is required to insure timely follow-up resulting in collection or suit where indicated. Installation of a suspense system to avoid the expiration of the statute of limitations is essential. Recommendations to file suit should be forwarded by the RJA well prior to the expiration of the statute of limitations. Within six months prior to the running of the statute of limitations, USARCS must be notified of the status of the claim or potential claim. Follow-up demands should precede filing suit to create a written record of efforts to avoid suit. Personal contact with all parties is encouraged. When represented, contact the representative.

(c) Sources other than vehicle liability coverage should be exhausted in cases where the amount of the potential recovery exceeds $50,000 and the coverage is small. Coordination with USARCS is required. USARCS can obtain expert witnesses for medical malpractice cases, product liability cases, or other cases in which another tortfeasor may be involved.

§ 537.11 Litigation.

(a) If a tortfeasor or insurer refuses to settle, or if an injured party's attorney improperly withholds funds, the RJA or recovery attorney must consider litigation to protect the interests of the United States. Litigation is particularly appropriate if a particular insurer consistently refuses to settle claims, or if the government's interests are not adequately represented on a claim over $25,000.

(b) RJAs or recovery attorneys must maintain close contact with local U.S. Attorney's Offices to ensure these offices are willing to initiate litigation on cases.

(c) In order to directly initiate or intervene in litigation, an RJA or recovery attorney must prepare a litigation report and formally refer the case through the Affirmative Claims Branch, USARCS, and the Litigation Division, OTJAG (as required by AR 27–40, chapter 5), to the U.S. Attorney. While the RJA or recovery attorney, in conjunction with the Litigation Division Torts Branch, should attempt to have the U.S. Attorney's Office initiate litigation at least six months before the expiration of the statute of limitations (SOL), the RJA or recovery attorney may contact USARCS telephonically if SOL problems necessitate quick action on a case. The RJA or recovery attorney should also contact USARCS if a U.S. Attorney is reluctant to pursue an important case. An injured party's attorney may represent the government's interest in litigation without any special coordination.

§ 537.12 Settlement authority.

(a) *Assertions for $50,000 or less*—(1) *Approval authority.* An RJA or civilian recovery attorney, if delegated authority by his or her ACO or CPO, may compromise a collection on a claim asserted for $50,000 or less, unless recovery action is reserved by a command claims service.

(2) *Final action authority.* (i) An ACO, or CPO if delegated authority by its ACO, may terminate collection action on a claim asserted for $50,000 or less, unless action is reserved by a command claims service.

(ii) The foregoing authorities may waive a claim asserted for $50,000 or less where undue hardship exists.

(iii) Determination of amount. The amount of $50,000 is determined totaling the amounts for medical care, lost military wages, lost earnings or government property damage arising from the same claims incident.

(b) *Assertions over $50,000.* USARCS retains final authority over assertions over $50,000. By use of the mirror file